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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,722	03/29/2004	Charles E. Harrison III	22241-00001-US	9357
30678	7590	12/06/2005	EXAMINER	
CONNOLLY BOVE LODGE & HUTZ LLP			ROBINSON, MARK A	
SUITE 800			ART UNIT	
1990 M STREET NW			PAPER NUMBER	
WASHINGTON, DC 20036-3425			2872	

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/810,722	HARRISON, CHARLES E.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mark A. Robinson	2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2005.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 2,8,9 and 11-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-7 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/29/04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election with traverse of group III (claims 1,3-7 and 10) in the reply filed on 10/5/05 is acknowledged. The traversal is on the ground(s) that the inventions are not independent, and the search for all of the groups is not burdensome.

In response, applicant is reminded that inventions need not be independent in order to be properly separated, but either independent or distinct. In the instant case, the inventions are distinct as set forth on page 4 of the requirement.

Additionally, applicant should note that the citation relied upon in the traversal states "if the search and examination..." (emphasis added). Clearly, the examination of multiple, separately claimed, distinct inventions does place an undue burden on the examiner. Further, the searches for the non-elected inventions may encompass class 248 and 403, as well as other portions of class 359 not necessarily required in searching the elected invention.

The requirement is still deemed proper and is therefore made FINAL.

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Claims 2,8,9 and 11-26 are withdrawn from consideration as being drawn to non-elected subject matter.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,3 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Beck (US 6102423).

Beck shows a backing mirror assembly including mirror(323) and substrate(302), shaft(37) coupled to the substrate, angulated position holder(36) rotatably coupled to the substrate and receiving the shaft, and support structure arm(301) coupled to the substrate, wherein the position holder is located between the substrate and support structure to facilitate rotational movement of the substrate relative to the support structure (e.g. figs. 12-16). Beck further shows a suction cup(312) and that the support structure is "adapted" to fit on either a tail gate or bumper (e.g. via the suction cup).

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***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beck in view of Howard (US 5784213).

Beck does not show the support arm to be foldable. However, such is shown by Howard in figs. 4 and 5. It would have been obvious to make Beck's arm foldable as taught by Howard in order to enable compact storage of the device.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beck in view of Staggs (US 5482310).

Beck does not show the support structure to include an adjustable slide rail to facilitate height adjustment. However, such is shown by Staggs in fig. 4. It would have been obvious to the ordinarily skilled artisan at the time of invention to include Staggs' height adjustment structure in Beck's device in

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order to enable adjustment of the mirror height allowing for use on different vehicles.

### **Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Teague, Osgood, Wilcox, Brewington, and Singleton all show various arrangements for backing mirrors.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Robinson whose telephone number is (571) 272-2319.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn, can be reached at (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

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information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MR

12/2/05

  
MARK A. ROBINSON  
PRIMARY EXAMINER